

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

STEPHEN L. GRIFFIN,

Plaintiff,

v.

CIVIL ACTION NO. 3:12-3561

UNITED STATES OF AMERICA  
VETERANS ADMINISTRATION,

Defendant.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that Defendant's Motion to Substitute Defendant and Motion to Dismiss the Complaint be granted (ECF Nos. 9 and 11), and Plaintiff's Complaint (ECF No. 2) be dismissed, without prejudice, for lack of subject matter jurisdiction. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **ORDERS** that Defendant's Motion to Substitute Defendant and Motion to Dismiss the Complaint be **GRANTED** (ECF Nos. 9 and 11), and Plaintiff's Complaint (ECF No. 2) be **DISMISSED, without prejudice**, for lack of subject matter jurisdiction, consistent with the findings and recommendations.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: March 28, 2013

  
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ROBERT C. CHAMBERS, CHIEF JUDGE